

In re Ralph H. GREENWASSER

Stacey Allen and Michael Allen,

v.

Ralph H. Greenwasser

CASE NO.: 01-20287-BKC-PGH

ADV. NO.: 01-02121-BKC-PGH-A

The Court found that Florida Statute § 772.14 was not applicable to the instant proceeding. Therefore, the Debtor was not estopped from denying conduct for which he was found guilty of in an underlying criminal prosecution. In order for section 772.14 to apply, the Debtor in the instant proceeding had to have been convicted in the underlying criminal proceeding for an offense that forms the basis of a "criminal activity" under chapter 772. Section 772.102(1)(a) enumerates a number of criminal activities ranging from homicide to horse racing. However, nowhere in this section is the crime for which the Debtor was convicted; to-wit, Florida Statutes § 316.193; driving under the influence of alcohol. To satisfy both prongs of § 523(a)(6), Plaintiffs must prove, by a preponderance of the evidence, that the Debtor's conduct was both willful and malicious. It is not enough that the act itself was intentional. Rather, the act must have been carried out with the actual intent to cause injury.